



## **DEPARTMENT OF TRANSPORTATION**

### **National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2022-0036]**

**RIN 2127-AM45**

### **Uniform Procedures for State Highway Safety Grant Programs**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notification of public meetings; request for comments (RFC).

**SUMMARY:** NHTSA is initiating a rulemaking process to implement changes to the Highway Safety Grant Program (the annual formula grants to States) in accordance with the Infrastructure Investment and Jobs Act. In order to ensure that the broadest possible cross-section of stakeholders is engaged from the onset of the process, NHTSA is publishing this RFC and announcing three public meetings to be held prior to issuing the Notice of Proposed Rulemaking (NPRM).

**DATES:** NHTSA will hold public meetings on May 2, May 4, and May 5, 2022, from 11:00 a.m. to 4:30 p.m., Eastern Daylight Time (EDT) each day. The meetings will be held virtually and provide an avenue for submission of comments. For planning purposes, NHTSA will allot time within each meeting for the topical areas outlined in this RFC, and to accommodate other issues a presenter may wish to raise. Upon registration, participants will identify whether they choose to provide verbal comments at the meeting and which topical areas they wish to address. Based on the results of that registration process, NHTSA will schedule time for each presenter, ensuring to the maximum extent practicable that all interested applicants have an opportunity for an oral presentation. However, the schedule will be on a first come first served basis. The public will also have the opportunity to submit written comments to the Docket concerning matters addressed in this notification. Written comments should be submitted no later than

**[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

**ADDRESSES:** The public meetings will be held virtually via Zoom for Government. The meetings' online links and a detailed agenda will be provided upon registration. You may send written comments, identified by the docket number listed at the beginning of this document or by the Regulatory Information Number (RIN), by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for sending comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001.
- Hand Delivery/Courier: 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call 202-366-9826 before coming.

*Instructions:* All written submissions must include the agency name and docket number or RIN for this rulemaking. All comments received will be posted without change at <https://www.regulations.gov/> including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket go to <https://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202-366-9826. If going in person, please call ahead to be sure someone is there to help you.

**FOR FURTHER INFORMATION CONTACT:** For more information, contact Amy Schick, Acting Director, Office of Grants Management and Operations, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, Telephone number: (202) 366-2764. You may also contact NHTSA's Grants Management and Operations Office at [nhtsaropdprogramquestions@dot.gov](mailto:nhtsaropdprogramquestions@dot.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The “Highway Safety Grant Program,” as used in this notification, refers to the annual formula grants to States, the District of Columbia, and U.S. Territories to carry out highway safety programs within their jurisdictions. NHTSA implements the Highway Safety Grant Program, in part, through regulations published at 23 CFR Part 1300. The Infrastructure Investment and Jobs Act (Public Law 117-58) (*hereinafter* the Bipartisan Infrastructure Law) requires NHTSA to undertake a rulemaking to implement changes to the Highway Safety Grant Program consistent with statute. The statutory and regulatory changes will take effect for grants starting in Fiscal Year 2024. In order to ensure that the broadest possible cross-section of stakeholders is involved from the onset of the rulemaking process, NHTSA is publishing this RFC and will hold public meetings prior to issuing a NPRM. In addition, NHTSA seeks comments related to non-regulatory aspects of implementing the Bipartisan Infrastructure Law. All interested parties are invited to participate in this opportunity.

**PUBLIC PARTICIPATION:**

*Registration:* Registration is required for all attendees. There is no cost to register. Attendees should register online at the links below by April 28, 2022. Please provide your name, affiliation, email address, and indicate whether you wish to speak during the public meeting. Register at:

- May 2, 2022: [https://usdot.zoomgov.com/meeting/register/vJltfuqhrz0pGqTf\\_q-7HL9klOdBTQKR99s](https://usdot.zoomgov.com/meeting/register/vJltfuqhrz0pGqTf_q-7HL9klOdBTQKR99s)

- May 4, 2022: [https://usdot.zoomgov.com/meeting/register/vJIsc-ihdTgtEwg9GuV\\_2WG4KOAmTrdmkiQ](https://usdot.zoomgov.com/meeting/register/vJIsc-ihdTgtEwg9GuV_2WG4KOAmTrdmkiQ)
- May 5, 2022: <https://usdot.zoomgov.com/meeting/register/vJItdemprDIjEy9ev-zPEJUQ0ht1zBeTLIA>

Each public meeting will be five hours long, with a 30-minute break at the halfway point of the meeting. Speaker registration will be on a first-come, first-served basis. As described later in this notification, NHTSA is interested in hearing presentations concerning the following topics: the National Roadway Safety Strategy (NRSS); Reducing Disparities and Increasing Community Participation; Triennial Highway Safety Plans; Annual Grant Applications; and Performance Measures. Presenters may also convey their views on other matters related to the upcoming implementation of the highway safety grants under the Bipartisan Infrastructure Law.

Through the registration link, speakers will be asked to select which of the specified topic(s) they want to address, as well as issues they may wish to raise. It is anticipated that each speaker will have five minutes to offer verbal comments per topic, but not to exceed 15 minutes total, in order to ensure that all interested presenters are given the opportunity to present their views during the day of the meeting. During this allotted time, speakers may ask clarifying questions of NHTSA and NHTSA may ask clarifying questions of speakers. When called upon to provide comments, speakers will be asked to turn on their camera and state their name and organizations/affiliation. NHTSA may adjust time allotments on a running basis during the meeting if the meeting is running ahead of schedule, to provide additional opportunities for discussion.

NHTSA is committed to providing equal access to this meeting for all participants. Persons with disabilities in need of accommodation should contact NHTSA's Grants Management Office at [nhtsaropdprogramquestions@dot.gov](mailto:nhtsaropdprogramquestions@dot.gov) or call (202) 366-2764 and ask for Amy Schick for help with your request by April 28, 2022. Closed captioning services will be available for this meeting through the Zoom platform.

Should it become necessary to cancel or reschedule the meeting due to an unforeseen circumstance, NHTSA will take all available measures to notify registered participants as soon as possible.

The public sessions will be recorded and transcribed. Both the recording and transcription will be made available after the event on the NHTSA website, listed under the title of the public meetings.

*Written comments:* Comments may be submitted electronically or in hard copy during the 30-day comment period. Please submit all comments no later than 30 days after the publication of this public notification, by any of the methods listed earlier in this document. Written comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001.
- *Hand Delivery:* 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call 202-366-9826 before coming.

*Instructions:* All written comment submissions must include the agency name and docket number. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below.

*Docket:* For access to the Docket, go to <https://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590

between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202-366-9826. If going in person, please call ahead to be sure someone is there to help you.

*Privacy Act:* Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78), or visit <https://www.regulations.gov/privacy.html>.

*Confidential Business Information:* If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information to the Chief Counsel, NHTSA, at 1200 New Jersey Avenue SE, Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should submit a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512). To facilitate social distancing during COVID-19, NHTSA is temporarily accepting confidential business information electronically. Please see <https://www.nhtsa.gov/coronavirus/submission-confidential-business-information> for details.

**SPECIFIC GUIDING QUESTIONS:** NHTSA has identified the five broad subject areas below as specific areas on which it requests comment, but welcomes comments and presentations related to any aspect of implementing the highway safety program.

### **National Roadway Safety Strategy**

In 2020, 38,824 people were killed in motor vehicle crashes. In the first nine months of 2021, an estimated 31,720 people were killed in motor vehicle crashes, up an alarming 12% over 2020.<sup>1</sup> The fatality rate per 100 million vehicle miles traveled (VMT) increased by 21% from

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<sup>1</sup><https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813240>

1.11 in 2019 to 1.34 in 2020, the largest percentage increase on record. The proportion of people killed who were not in passenger vehicles (motorcyclists, pedestrians, pedalcyclists, and other nonoccupants) increased from a low of 20% in 1996 to a high of 34% in 2020.

U.S. DOT's NRSS and the Department's ongoing safety programs are working towards a future with zero roadway fatalities and serious injuries. The guiding paradigm of the NRSS is the Safe Systems Approach (SSA), which addresses roadway safety by building and reinforcing multiple layers of protection to prevent crashes and minimize the harm caused to those involved when collisions occur. It is a holistic and comprehensive approach because it focuses on human mistakes and human vulnerability. SSA calls for a system with many redundancies in place to protect everyone.

With regards to the highway safety grant program regulations:

1. How can NHTSA, States, and their partners successfully implement NRSS and the SSA within the formula grant program to support the requirements in Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (Public Law 117-58)?
2. What non-traditional partners and safety stakeholders can the States work with to implement NRSS and SSA?

### **Reducing Disparities and Increasing Community Participation**

Traffic crashes are a leading cause of death for teenagers in America and disproportionately impact Black people, American Indians, and rural communities. Section 24102 of the Bipartisan Infrastructure Law requires State highway safety programs to provide "meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities."

In addition, Section 24102 requires that States "as part of a comprehensive program, support—(i) data-driven traffic safety enforcement programs that foster effective community collaboration to increase public safety; and (ii) data collection and analysis to ensure

transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities.” The following questions seek input on strategies to reduce traffic safety disparities:

3. How can the Sections 402, 405, and 1906 formula grant programs contribute to positive, equitable safety outcomes for all? How can states obtain meaningful public participation and engagement from affected communities, particularly those most significantly impacted by traffic crashes resulting in injuries and fatalities?
4. How can the formula grant program require practices to ensure affected communities have a meaningful voice in the highway safety planning process?
5. What varied data sources, in addition to crash-causation data, should States be required to consult as part of their Highway Safety Plan problem identification and planning processes to inform the degree to which traffic safety disparities exist on their roadways?

### **Triennial Highway Safety Plan**

Beginning in FY 2024, States will be required to submit a Highway Safety Plan (HSP) once every three years. The HSP is a statewide, coordinated *behavioral* safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries. The HSP identifies a State's key behavioral safety needs and guides investment decisions towards strategies and countermeasures with the most potential to save lives and prevent injuries. As set out in the Bipartisan Infrastructure Law, the longer-term HSP should be designed to allow the States to better reflect on the countermeasures to be implemented and inform annual project selections to combat these increasing trends.

6. How can the triennial cycle best assess longer-term behavior modification progress and connect year-to-year activities in a meaningful way?
7. How can the triennial HSP account for strategies that are proportionate to the State's highway safety challenges?



8. What information is needed to ensure the HSP provides comprehensive, longer-term, and data-driven strategies to reduce roadway fatalities and serious injuries?

### **Annual Grant Application**

To combat the increasing number of fatalities on America's roadways, NHTSA's stewardship role is to ensure that States leverage their funds most effectively to decrease the number of roadway fatalities. An essential aspect of this is ensuring transparency in the use of funds. NHTSA must ensure that Federal dollars are spent as effectively as possible and that sufficient details are provided so taxpayers know where funds are spent.

Section 24102 of the Bipartisan Infrastructure Law requires States to submit an annual grant application that demonstrates alignment with the approved triennial HSP. The annual grant application requires, at a minimum, "updates, as necessary, to any analysis included in the triennial highway safety plan," "an identification of each project and subrecipient to be funded by the State using the grants during the upcoming grant year, subject to the condition that the State shall separately submit, on a date other than the date of submission of the annual grant application, a description of any projects or subrecipients to be funded, as that information becomes available," a description of the means by which the strategy of the State to use grant funds was adjusted and informed by the previous report" and "an application for any additional grants" under Section 405 and 1906.

9. What data elements should States submit to NHTSA in their annual grant application to allow for full transparency in the use of funds?
10. What types of data can be included in the annual grant application to ensure that projects are being funded in areas that include those of most significant need?

### **Performance Measures**

Performance management provides a framework to support improved investment decisions that guide States to focus on areas likely to have the most meaningful impacts on saving lives, preventing injuries, and reducing traffic-related healthcare and other economic

costs. NHTSA and the Governors Highway Safety Association previously collaborated on a minimum set of performance measures to be used by States to develop and implement behavioral HSPs and programs. States establish safety targets and report progress for 12 core outcome measures, 1 behavior measure, and 3 activity measures. The measures cover the major areas common to State HSPs and use existing data systems. Except for the addition of a bicyclist performance measure in 2015, the measures were last updated in 2008.

11. Should these measures be revised? If so, what changes are needed?
12. Section 24102 of the Bipartisan Infrastructure Law requires performance targets “that demonstrate constant or improved performance.” What information should NHTSA consider in implementing this requirement?
13. What should be provided in the Annual Report to ensure performance target progress is assessed and that projects funded in the past fiscal year contributed to meeting performance targets?
14. How can the Annual Report best inform future HSPs?

Issued in Washington, DC.

Under authority delegated in 49 CFR 1.95 and 501.5.

**Barbara Sauers,**

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*Regional Operations and Program Delivery.*

**BILLING CODE: 4910-59-P**

[FR Doc. 2022-08484 Filed: 4/20/2022 8:45 am; Publication Date: 4/21/2022]